THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 16th October, 2006

W.P.No.5296 of 2003

Between:

Nagelli Ashok Kumar … Petitioner

and

District Collector, Nizamabad district
at Nizamabad & others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.5296 of 2002

ORAL ORDER:

It seems, the petitioner is a fair price shop dealer of Kotgir village, Nizamabad district. An enquiry was launched against him alleging that he has committed misappropriation of certain quantities of rice. While the enquiry was in progress, the impugned notice dated 15-3-2004 has been issued under the provisions of A.P.Revenue Recovery Act (for short 'the act') by the 4th respondent. Even at the time of admission of the Writ Petition, on 31-3-2003 interim stay was granted by this Court observing that as on that day, there was no finding recorded against the petitioner that he has misappropriated any quantity of rice and only when such a finding is recorded, the recovery can be effected from the petitioner. The said order is still subsisting.

In the facts and circumstances of the case, I am of the opinion that the authorities have not conducted any enquiry, but came to a final conclusion that the petitioner has misappropriated certain quantities of rice and as such, he is liable to pay certain amounts; therefore, proceedings under the Act have been initiated. The same is arbitrary and illegal. As such, the impugned notice is liable to be set aside and is accordingly set aside.

Accordingly, the Writ Petition is allowed. No order as to costs.

16-10-2006

prk